

THE MARTHA'S VINEYARD COMMISSION

BOX 1447 • OAK BLUFFS
MASSACHUSETTS 02557
(508) 693-3453
FAX (508) 693-7894

MINUTES OF NOVEMBER 15, 1990

MARTHA'S VINEYARD COMMISSION MEETING

The Martha's Vineyard Commission held a public hearing on Thursday, November 15, 1990 at 8:00 p.m. at the Martha's Vineyard Commission Offices, Olde Stone Building, New York Avenue, Oak Bluffs, MA regarding the following Development of Regional Impact (DRI):

- Applicant: Steven Rattner
1 West 72nd Street
New York, NY 10023
- Location: On Vineyard Sound
off OBED Daggett Road
West Tisbury, MA
- Proposal: Subdivision of land qualifying as a DRI since the proposal is for development of a related or contiguous ownership of twenty (20) acres or more.

Robert T. Morgan, Sr., Chairman of the Land Use Planning Committee, (LUPC), read the Rattner Public Hearing Notice, opened the hearing for testimony, and described the order of the presentations for the hearing. Mr. Morgan stated that in discussions at LUPC we had no problem with this DRI. It is on the agenda for the regular meeting for possible oral vote tonight if the Commissioners choose. He then introduced John Schilling, MVC Staff, to make his presentation.

Mr. Schilling referred Commissioners to staff notes, which he reviewed using wall displays. He then answered questions from the Commissioners summarized as follows: Is there a buffer zone around burial ground? Mr. Schilling showed location. Applicant will have to detail size.; Describe wetlands crossing to access lot #2. He showed location on plan and stated that the West Tisbury Conservation Commission had approved and document is on file; Commissioner noted recent visit from Historical Preservation in Gay Head where 100 ft. was listed as State requirement for buffer around a burial ground.

Mr. Doug Hoehn, Schofield Brothers, represented the applicant and responded to the questions regarding the buffer of the burial ground as it is shown on the plan which he stated was based on the contour of the existing hill and cemetery. Mr. Hoehn then stated that revisions were made to the plans based on discussion with LUPC. He submitted new plans, which he displayed. He briefly discussed ownership of the property, the natural split of the property made by the stream/wetland, the Planning Boards concerns and how they were addressed including notation on the plans regarding necessity for a

Form C for future buildable lots. He discussed the size of the burial ground buffer at approximately 3/4 acres and stated they could increase the size if necessary. He then discussed the stream crossing being 25 ft. in length X 3 ft. in width over a 12 ft. stream. There will be 2 concrete head walls, 2 metal culverts each designed for a 100 year storm, and the driveway will be bluestone with swales as approved by the Conservation Commission. Approximately 325 ft. of wetlands will be removed. This is allowable if it is replaced, so there is a replication section. The MVC has the order of conditions from the W. Tisbury Conservation Commission for this approval. Mr. Hoehn stated that the applicant had requested a waiver from the checklist for this proposal and was denied.

Mr. Hoehn then answered questions from the Commissioner: What currently exists in the area slated for replication? Response was buffer zone for existing wetland. It is allowable to replicate in the buffer zone? Response was yes.

Mr. Rappaport, Counsel for the applicant, stated that the applicant has the right to divide this land under M.G.L. Section 81L because he has 2 pre-existing buildings on the lot. He is carrying this out and then redrawing the lot lines. He has the right to build up to 9 houses here, however, he is not doing that just dividing it into 2 lots.

When there were no further questions for the applicant Mr. Morgan called for testimony in favor, opposed or neither pro nor con on this proposal. There was none. Mr. Morgan stated that since there is no further testimony the Commissioners should decide if they want to hold the record open for 1 week for written testimony or close it tonight and discuss and vote during the regular session.

Mr. Filley asked Mr. Morgan if LUPC had any concerns? Mr. Morgan responded only to address the concerns expressed by the W. Tisbury Planning Board.

There was a consensus vote to close the public hearing and put the item on for discussion and possible vote tonight. There was 1 abstention to this vote, Sibley.

Mr. Morgan closed the public hearing and record at 8:30 p.m.

After a short recess, Mr. Filley, Chairman, opened the regular meeting of the Commission at 8:40 p.m. and proceeded with agenda items.

ITEM #1 - Chairman's Report

Mr. Filley welcomed Michael Donaroma as the newly appointed Edgartown representative and Ben Hall, Jr., Edgartown, and John Best, Tisbury, as the newly elected Commissioners whose terms will begin January 1st. Mr. Colaneri, West Tisbury elected, was not present.

ITEM #2 - Old Business

Mr. Young and Mr. Early, Commissioners, reported on the Magid Subdivision Site Visit. They agreed that the cutting was done at the wrong time, namely in light of the question of when the Town's option on the land expires. However they stated that the cutting was not the great destruction that they had expected. Mr. Young asked where the Certificate of Compliance stands on this DRI? Mr. Clifford, Executive Director, responded that it had not been issued yet but the West Tisbury Planning Board's question was related to the deep observation well for release of some lots. It was stated that Mr. Rosbeck should be aware that he shouldn't proceed with work on that section of the property until the question is resolved. Mr. Clifford stated that Mr. Rosbeck is aware and the parties lawyers are in contact.

ITEM #3 - Minutes of October 18, 1990

It was motioned and seconded to approve the draft minutes of October 18, 1990 as presented. There was no discussion. This motion passed with no opposition, 3 abstentions, Fischer, Wey, Donaroma. (Davis abstained.)

ITEM #4 - Committee and Legislative Liaison Reports

Mr. Morgan, Chairman of LUPC, reported on recent meeting with representatives of Island Elderly Housing and Herring Creek Trust for preliminary discussions on their proposals. He then reviewed the schedule for upcoming meetings.

As Legislative Liaison Mr. Morgan reported that the deadline to refile bills is December 5th. We will be refiling the excise bill again.

Mr. Sullivan, Chairman of the Roads Committee, reported that they had met to put together a "shopping list" of quick fix, short term options such as altering street directions, map distribution, signs, etc. to send to McDonough & Scully. He asked for Commissioners input on this list.

ITEM #5 - Discussion - Rattner DRI, Town of West Tisbury

Mr. Filley asked Mr. Morgan to report as Chairman of LUPC.

Mr. Morgan read the letter from the West Tisbury Planning Board. He suggested that this letter and the Conservation Commission's Order of Conditions and Notes on Replications, including registry book and page number, should be included in the decision.

There was some discussion on wetlands replication regarding the size, location and chances of actual replication.

When there was no further discussion Mr. Filley moved to the next agenda item.

ITEM #6 - Possible Vote - Rattner DRI, Town of West Tisbury

Mr. Morgan asked if anyone wanted the wetland replications notes read? The response was negative.

It was motioned and seconded to approve the Rattner DRI with conditions as follows:

1. The buffer zone around the burial ground will be a minimum of 100 ft. or meet the State Requirements if those requirements exceed 100 ft.
2. Prior to any permits being issued a study should be done to determine that there are no endangered species within 100 ft. of any area to be disturbed and this study should be referred to the Conservation Commission.
3. Creation of new building lots will require a "Form C" Definitive Subdivision Plan.
4. Incorporate provisions of W. Tisbury Conservation Commission Special Conditions: Verbeck, #79-49, Registry Book 519, Pg 442.
5. Incorporate Wetland Replication Notes, Registry Book 519, Pg 443, modified to increase the rate of replication to a 2:1 ratio.

Discussion on this motion followed.

Mr. Rappaport, applicant's counsel, stated that he is concerned with increasing the replication area in light of the fact they already have Conservation Commission approval and that they didn't want replication at all and allowed it since it is a State requirement. It was stated that a change is as easy as submitting an amendment to the Conservation Commission with a copy to the State. Mr. Rappaport restated that West Tisbury Conservation Commission didn't want to do it at all. It was then stated that they did approve it and even requested a change in the vegetation for the area to satisfy them. There was further discussion on this issue.

It was moved and seconded to change Condition #5 to delete the modification. This passed by a majority vote. The Condition will now read:

5. Incorporate Wetland Replication Notes, Registry Book 519, Pg 443.

There was discussion on how Condition #2 could be implemented. It was discussed that previous applicants have been asked to relocate species according to Conservation Commission specifications.

The motion to approve the Rattner DRI with conditions as specified above carried with a vote of 14 in favor, 0 opposed, 1 abstention, Donaroma. (Davis was in favor.) Commissioner Young was not present at the table during the Rattner public hearing or discussion and possible vote.

ITEM #7 - New Business - Appointment of a Nominating Committee

Mr. Filley appointed himself and the following Commissioners to the nominations committee: A. Fischer, J. Green, V. Colebrook, T. Sullivan, B. Morgan, and J. Early.

ITEM #8 - Status Report and Presentation - Open Space Element - Regional Comprehensive Plan, Mark Adams

Mr. Filley reminded Commissioners to hand in the open space surveys tonight and introduced Mark Adams to review the work to date.

Mr. Adams stated that he would like to introduced Commissioners to the mapping system. He explained that the maps will serve dual purpose both in the M.V. Land Bank Open Space Plan and the M.V.C. Regional Policy Plan. He explained the bases: 1/25000 USGS and assessor's maps and how the maps can be overlaid for composite printing. Mr. Adams then discussed each map individually: map showing moraine, soils and characteristics, he discussed the important of the agricultural land particularly the Class 1 soils making up about 4% of the Island's land mass as being one of the most critical resources, Class 2 soils are about 15% of the Island's land mass; showed the locations of existing farms; discussed map showing land use characteristics and its planning possibilities; showed map indicating conserved lands and areas for possible conservation by overlaying with land use map; he showed the DCPC's for the entire Island; he showed areas for planning of habitat and species protect and indicated the global importance of protecting sandplain grasslands.

There were questions regarding the importance of the sandplain grasslands such as the following: is this proposing re-creations; always heard trees are important this shows forest land possibly being used for grasslands, what is comparison of importance between trees and this habitat; changing the way the habitat has developed might be unnatural. Mr. Adams asked Dick Johnson of Sheriff's Meadow Foundation to discuss this.

Mr. Johnson stated that the reason why sandplain grassland is more important than trees here is because there is so little of it, not only regionally, but globally. Sandplain grasslands are maintained by the salt wind blowing off the ocean and fires that used to sweep Martha's Vineyard and kept the land in the early stages of succession. This has been changed, altering the conditions by human habitation. Re-creation would imitate the natural process that existed before, such as the controlled burns used at the Katama Airfield. Sandplain grasslands only exist on Nantucket, Martha's Vineyard, Cape Cod and Long Island New York. There is not much left. Really just Nantucket and Martha's Vineyard in the entire world. The species' last chance is Nantucket and Martha's Vineyard.

Mr. Adams stated the map showed the areas that have the characteristics to support endangered species habitats and stated that any of the land has the potential for restoration. He then discussed landscape types.

Following the discussion, Commissioners asked the following questions: any plans for putting this in a GIS system?, response no funding at this time but it is in the scale that DEM uses and could be put into GIS; agricultural land on Martha's Vineyard is 25% of land mass?, not exactly, Class 1 and Class 2 soils are closer to 19% but there are some existing farms not located in these soil zones; possible sharing of information with the Tribal Council utilizing their CAD system.

Mr. Filley thanked Mark Adams for his excellent work and Jan Wheaton, staff cartographer, for her assistance. He asked Commissioners to spend some time looking at the maps and discussing questions and input with Mark.

ITEM #9 - Correspondence

Mr. Filley read a letter dated October 29th from Department of Environmental Affairs (DEM) regarding the contract between DEM and the MVC. It discussed a vote to designate a contract officer. Mr. Filley discussed appointing Mr. Friedman as contract officer.

It was motioned and seconded to appoint Norman Friedman, Administrator, as the DEM contract officer. There was no discussion. This motion passed unanimously.

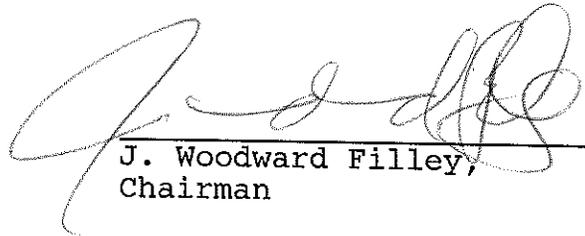
Mr. Filley continued with correspondence by reading the following letters: FROM: Division of Public Employment Retirement Administration DATE: November 6. RE: enclosing a certificate establishing a retirement system of the MVC. FROM: Vineyard Conservation Society, DATE: November 9, RE: Solar aquatics talk November 16th at 7:30 p.m. FROM: Ex-Commissioner Larry McCavitt, RECEIVED: November 13th. RE: Relating his trip around the world. FROM: Tisbury Planning Board, DATE: November 15, RE: Request to be heard tonight. Mr. Filley stated that this has been resolved with a letter. FROM: Nutter, McClennan & Fish, RE: Playhouse Theatre, ZBA decision differs from MVC, how to proceed. FROM: Peter Van Rosbeck, DATED: November 7, 1990, RE: Magid Subdivision time period question. Mr. Filley stated that parties counsels are reviewing this. FROM: Reynolds, Rappaport and Kaplan, DATED: November 8, 1990, RE: Proposed changes to O.B. Zoning By-laws relating to the Hospital expansion. Mr. Filley stated a committee will be formed to study this either by volunteers or appointment. Mr. Young volunteered.

Mr. Filley then thanked Mr. Simmons, MVC Transportation Planner, for the work done on the Southeast Marine Transportation Symposium that was such a success. There was a round of applause for Mr. Simmons. Mr. Filley then read the last letter from Citizens for Sound Planning, Falmouth, thanking the MVC and Mr. Simmons for hosting the very successful symposium.

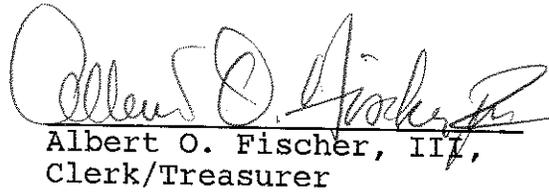
Mr. Clifford reported to Commissioners that no DRI public hearings would be scheduled for December. All public hearings will be postponed until January when we have the new membership. He will give a report in December on what is upcoming.

The meeting was adjourned at 10:03 p.m.

ATTEST



J. Woodward Filley, Chairman Date 12/20/90



Albert O. Fischer, III, Clerk/Treasurer Date 12-20-90

Attendance

Present: Bryant, Early, Eber, Donorama, Filley, Fischer, Green, Jason, Lee, Morgan, Schweikert, Sibley, Sullivan, Wey, Young, Clarke, Davis.

Absent: Colebrook, Benoit, Allen, Geller, Harney.